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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,418	05/31/2001	Laurence Lundblade	010201	2666

23696 7590 03/15/2004

Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

EXAMINER

BARNIE, REXFORD N

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 03/15/2004

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/872,418

Applicant(s)

LUNDBLADE ET AL.

Examiner

REXFORD N BARNIE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 31 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

R. N. Barnie
REXFORD BARNIE
PRIMARY EXAMINER

03/05/04

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimball (US Pat# 5,862,474) in view of Fette et al. (US Pat# 6,052,600).

Regarding claim 1, Kimball teaches a programmable wireless device controlled by a telecommunication system including receiving an application and identification information which would read on an upgrade software and identification reads on MIN preference or SID; certifying the application satisfies a predetermined criterion would read on the applications containing usable data stream in (see col. 3 lines 29-31); assigning a permission would include system preference, MIN preference, SID and

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transmitting the commands which would include the application software, permission and identification information as part of a command code in (see col. 2 line 59-col. 3) to program a wireless device. Kimball fails to teach transmission using a modification detection technique, a stored rule to decipher information transmitted which would be obvious in light of Kimball and the ability to remove information.

Fette teaches a software programmable radio and method for configuring wherein a software distribution computer can download information using an application and identification information associated with a radio to be programmed, determining whether permission is granted for instance based on a network type, updates (see col. 2 lines 35-45, col. 4 lines 40-44, col. 6 lines 17-22). Fette teaches transmission of an application, permission and identification using an encryption technique or digital signatures which can be decipher based on stored logic and determining if the application would be compatible with the phone in (see figs. 2-4, col. 6 lines 58-col. 7 line 40). According to Fette based on (col. 9), obviously, a program which fails to function properly would not be enabled thus disabling the application or a user a user can remove programmable information in (see col. 9 lines 53-56). Fette teaches a server which can be used to determine what model phones would support a certain upgrade, compatibility with a network and so on in (see col. 4 lines 13-16).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Fette into that of Kimball thus making it possible to remote program a telephone thus saving a user time and being to verify the identification associated with programmable parameters.

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Regarding claims 2-3, The combination including Fette teaches being able to process receive application and deny the application the right to configure in (see col. 9 of Fette).

Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimball (US Pat# 5,862,474) in view of Fette et al. (US Pat# 6,052,600) and further in view of Moore (US Pat# 6,259,791).or Osborn (US Pat# 6,026,293).

Regarding claims 4-7, the combination teaches the claimed subject matter in (see Fette) but for the sake of argument, Osborn teaches a system for preventing electronic memory tampering wherein an authentication code, digital signatures and so forth can be used in determining whether a memory is to be programmed by a data transfer device (see col. 6 lines 46-col. 7 line 3, col. 10, col. 12 lines 14-25).

Moore teaches a method and apparatus in a wireless messaging system for controlling a hierarchical provision of services in (see figs. 2, 3 and 5) where encryption and decryption can be used when transmitting commands in addition to other identifiers, reprogramming commands and the ability to delete information in (see disclosure).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of the secondary references either Moore or Osborn into that of the combination to reinforce the ability to enhance security of transmitted data message from tampering and to make a determination whether a received data should be accepted or not.

Claims 1-13, 16 and 24-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fette et al. (US Pat# 6,052,600) in view of Kimball (US Pat# 5,862,474) or Osborn (US Pat# 6,026,293) .

Regarding claims 1, 8, 30, and 40-42, Fette teaches a method for distributing and processing an application comprising of receiving an application, certifying that the application satisfies a predetermined criterion which could include compatibility issues, assigning a permission could be grant of license and transmitting the application, device ID, encryption or digital signature and so on to the device wherein a comparison is made to make a determination whether to process the information in (see disclosure).

Fette fails to teach identification of a programmer associated with an application or general identification information associated with an application command.

Kimball teaches an application modification system wherein application commands would include a plurality of identification information in (see col. 2 line 59- col. 3). Furthermore, Kimball teaches decoding command information to determine compatibility issues, usable data and so forth.

Osborn teaches an application upgrade system wherein a programmer or application source can be authenticated before permission is given to upgrade or modify information stored in a wireless device in (see fig. 4, 7, 8, col. 12 lines 14-25).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Kimball or Osborn into that of Fette thus making it possible to authenticate access to a user's device memory to prevent fraudulent tampering.

Regarding claims 9-13 and 34-37, The combination render the claimed subject matter obvious.

Regarding claim 16, see the explanation as set forth regarding claim in addition to the fact an unrecognized command will not be enabled which according to the applicant will be equivalent to removing the application from the device.

Regarding claims 24 and 38, see the explanation as set forth regarding to claim 1 in addition to the figs. Of Kimball and Fette.

Regarding claim 25-28, 31-32, 39 and 43-45, the combination teaches certification of application commands from an application source, encryption techniques and so forth.

Regarding claim 29, the combination teaches the claimed subject matter because the claimed means would perform the method steps.

Regarding claim 33, see the explanation as set forth regarding claim 1.

Regarding claim 46, The combination teaches decryption of encrypted data and the possibility of disabling an application code for compatibility issues or if it fails to function properly.

Regarding claims 47-50, see the explanation as set forth regarding claim 51. Note that a grant license and encryption codes would be analyzed when granting access to an application

Regarding claim 51, see the explanation as set forth regarding claim 1. The combination including Fette and Osborn teaches the claimed subject matter in (see figs.)

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Regarding claims 52-53, The combination including Fette, Osborne or Kimball teaches being able to process information whether it's encrypted (Fette, Osborn) or not (Kimball).

Claims 14, 15 and 17-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over fette et al. (US Pat# 6,052,600) in view of Kimball (US Pat# 5,862,474) or Osborn (US Pat# 6,026,293) and further in view of Grob et al. (US Pat# 5,737,708).

Regarding claim 14-15 and 17-23, The combination teaches not enabling a failed application and Grob teaches a method for handling unrecognizable command in a wireless environment wherein sometime unrecognized commands would not be processed.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Grob into that of the combination thus not processing unrecognized commands if the device has been instructed not to process them to avoid tampering.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **REXFORD N BARNIE** whose telephone number is (703) 306-2744. The examiner can normally be reached on M-F 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on (703) 305-4708. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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REXFORD BARNIE
03/05/04

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